SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. 1223

JOHN K. SNYDER,

Appellant,

versus

EDWIN O. WARE, III, JOE D. SMITH, JR., LEDOUX R. PROVOSTY, JR., DAVID SHEFFIELD, CHARLES EDWARD KARST, DON MORIARITY, RICHARD MORIARITY, JOE DEAR, A. M. D'ANGELO, GUY E. HUMPHRIES, JR., FIELD V. GREMILLION, DAVID WILLSON and RODNEY K. ARMAND,

Appellees.

Appeal from the United States Three-Judge District Court, Western District of Louisiana

STATEMENT AS TO JURISDICTION

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STATEMENT AS TO JURISDICTION

TO THE HONORABLES, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE UNITED STATES SUPREME COURT:

For a statement as to jurisdiction, appellant, Mr. Snyder, respectfully gives the court to understand the following:

OPINION BELOW

The opinion below is in the nature of an interlocutory order denying injunctive relief as to the enforcement of a state statute of Louisiana providing sanctions of fine and imprisonment for defamatory utterances. This opinion has not been reported. Essentially the opinion holds that the Louisiana statute, which in effect provides punishment for seditious libel, is not unconstitutional. This opinion is reproduced in the appendix, infra, p. 30.

JURISDICTION

Appellant filed an original petition in the United States District Court, Western District of Louisiana, in which he assails the constitutionality of Louisiana Revised Statutes of 1950, Title 14, Section 47. He requested the composition of a statutory Three Judge District Court pursuant to sections 2281 and 2284 of Title 28, United States Code. In this action he sought injunctive relief as to the enforcement of this state statute.

The state statute in question amended as emergency legislation by the provisions of Act 647, Section 1 of 1968 (reported in West's Louisiana Statutes Annotated, Volume 9, cumulative annual pocket part, LSA-R.S. 14:47), reads as follows:

> "Defamation is the malicious publication or expression in any manner, to anyone other

than the party defamed, of anything which tends:

(1) To expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or

(2) To expose the memory of one deceased to hatred, contempt, or ridicule; or

(3) To injure any person, corporation, or association of persons in his or their business or occupation.

Whoever commits the crime of defamation shall be fined not more than $500.00, or imprisoned for not more than six months, or both." (Amended by Acts 1968, No. 647, Section 1, Emerg. Ef. July 20, 1968, at 1:30 P.M.)

On October 13, 1969, in denying interlocutory injunctive relief the Three Judge District Court held: "We find that the Louisiana Statutory provisions in question are not unconstitutional per se * * *". Notice of appeal was given on November 12, 1969, and filed in the United States District Court. Jurisdiction of the appeal is conferred on this court by virtue of the provisions of 28 USCA 1253. This jurisdiction is further sustained by the following cases: *Garrison v. Louisiana*, 379 U.S. 64, 85 S. Ct. 209; *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710; *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323; *Curtis Publish-*

ing Company v. Butts, 388 U.S. 144, 87 S.Ct. 1975; *Rosenblatt v. Baer,* 383 U.S. 85, 86 S.Ct. 669; *Time Inc. v. Hill,* 385 U.S. 379, 87 S.Ct. 534; *Dombrowski v. Pfiester,* 380 U.S. 487, 85 S.Ct. 1116.

QUESTIONS PRESENTED

1. Are the provisions of LSA-R.S. 14:47 unconstitutional as constituting a denial of free speech, contrary to the First and Fourteenth Amendments to the United States Constitution, both as written and as sought to be applied?

2. In light of the issues presented by appellant's petition, did the three judge district court commit error in abstaining?

CONCISE STATEMENT OF THE CASE

In May of 1969, petitioner was a candidate for the Office of Mayor of the City of Alexandria, Louisiana. He was moved to become a candidate by the conviction that the community of Alexandria could not much longer survive the existing pervasive corruption in the public affairs of Alexandria. The hallmark of his candidacy was the pledge to get rid of all corruption in every form. He vigorously went to the attack, exposing existing public corruption and pointing an accusatory finger at public officials who by their very position inescapably had to have knowledge of the undeniable corruption. A large segment of the community rallied to his support. The official family of the community, including the District Attorney, staged a

counterattack against Mr. Snyder. During the campaign the District Attorney publicly stated that he would seek to have Mr. Snyder indicted for defamation.

Mr. Snyder survived the First Primary and became a run-off candidate in the Second Primary. The incumbent Mayor was defeated in the First Primary and shortly thereafter indicted for the very corruption which petitioner sought to expose. In Mr. Snyder's view, however, there were many other guilty parties. The official family combined with his opponent in the Second Primary to defeat Mr. Snyder by only a few votes. Before the Second Primary election the District Attorney was consulting with some of the officials whom Mr. Snyder had criticized with a view to persuading an existing State Grand Jury to indict him for defamation. Within a matter of days after the Second Primary election, fourteen indictments of criminal defamation were returned against Mr. Snyder, including an alleged defamation of the State District Attorney, who publicly campaigned against Mr. Snyder and who counseled the Grand Jury that returned the indictment. These indictments are based upon utterances allegedly made by petitioner during the political campaign aforesaid.

The indictments in question were based upon Louisiana Revised Statute, Title 14, Section 47. These indictments are reproduced in the Appendix, infra, P. 33.

This state statute was declared unconstitutional by this court in *Garrison v. State of Louisiana*, 379 U.S. 64, 85 S.Ct. 209, 13 L.Ed.2d 125 (1964). The essential holding of the court is verbalized in these words: (85 S.Ct. at P. 217)

> "Applying the principles of *New York Times* case, we hold that Louisiana Statute, as authoritatively interpreted by the Supreme Court in Louisiana and incorporates constitutionally invalid standards in the context of criticism of the official conduct of public officials.
>
> * * * *
>
> "The statute is also unconstitutional as interpreted to cover false statements against public officials."

On August 8, 1969, petitioner filed an original complaint in the United States District Court for the Western District of Louisiana, seeking, inter alia, injunctive relief against these state prosecutions. He simultaneously requested the composition of a three judge court to determine the constitutionality of this state statute. He presented his application for a temporary restraining order to Honorable Edwin F. Hunter, Jr., United States District Judge, but was denied relief. As state officials pressed forward with the criminal prosecutions of your petitioner by compelling hearings on preliminary pleas, leading to his actual trial, petitioner addressed himself to Honorable John Minor Wisdom in his dual capacity as appellate judge of the

United States Fifth Circuit Court of Appeals and as one of the judges of the three judge District Court appointed by Honorable John R. Brown, Chief Judge, Fifth Circuit, on August 18, 1969. See Appendix, infra, P. 70. In his written application of September 10, 1969, to Honorable John Minor Wisdom, petitioner emphasized the GARRISON decision and the fact that state officials were accomplishing that which the Supreme Court of the United States had proscribed in *Dombrowski v. Pfiester*, 380 U.S. 487, 87 S.Ct. 1116, in that Mr. Snyder was being made to risk prosecution and imprisonment to test his right of free speech. Petitioner received no response from Honorable John Minor Wisdom to this request.

Again on September 17, 1969, petitioner made written request of Honorable John Minor Wisdom, Edwin F. Hunter, Jr. and Richard J. Putnam, for an immediate hearing to consider the grant of immediate injunctive relief, again emphasizing his impossible position and pointing out additional prosecutive steps being taken against him by state officials leading to his actual trial for defamation based upon the state statute in question. See Appendix, infra, P. 76. When petitioner received no response to his request by October 9, 1969, and because of the urgency of petitioner's legal predicament, petitioner caused to be served upon the three judges of the District Court an application filed with this court seeking an order in the nature of a mandamus directing the United States District Court to take action on his application for injunctive relief.

On October 13, 1969, the three judge District Court caused an order to be issued denying and/or withholding injunctive relief, in the course of which the court said:

> "We find that the Louisiana statutory provisions in question are not unconstitutional per se, but that they may be susceptible of a limiting construction, in accordance with the holding of New York Times, Garrison, and Moity, supra. * * * "

As part of the remarks contained in the order, the three judge District Court attached a copy of an opinion rendered by the State District Court in which the criminal prosecutions against petitioner were pending. See Appendix, infra, P. 30. In that opinion the State District Court held that the state statute in question was not unconstitutional, as to which opinion petitioner gave notice of his intention to apply to the Supreme Court of Louisiana, the court of last resort, for remedial writs. In speaking to this event in its order of October 13, 1969, the three judge District Court said:

> "Plaintiff has until October 17, 1969, to perfect his application for writs to the Supreme Cour of Louisiana. If writs are denied and a conviction follows, his constitutional defenses are subject to full review on appeal. We refrain from acting until his state remedies are exhausted. We retain jurisdiction so that plain-

tiff may seek relief in the federal court after he has exhausted his state remedies."

By this order the three judge Federal District Court has not only abstained, but effectively it has abdicated the jurisdiction imposed upon it by Congress. The order in question remits petitioner to "review on appeal" after his conviction. "Review on appeal" after conviction, of course, must be addressed to this Honorable Court. Such review, once granted, is final as to all the constitutional questions that petitioner must raise in asserting his defense. Inasmuch as such a review is final, these issues can never again be presented to the United States Three Judge District Court. The United States District Court thus has effectively abdicated jurisdiction over these issues that are presented by petitioner's original complaint.

Petitioner indeed did apply for remedial writs with the Louisiana Supreme Court as to the ruling of the State Judge concerning the constitutionality of the state statute in question. In his application he registered a complaint concerning the constitutionality of the state statute and as to the refusal of the State District Judge to receive evidence to establish that the persons allegedly defamed by petitioner mentioned in the indictments were either public officials or public figures within the context of *Garrison v. State of Louisiana*, 379 U.S. 64, 85 S.Ct. 209. These questions had been raised by a Motion to Quash filed by Mr. Snyder.

In pressing his attack in this application with the State Supreme Court upon the constitutionality of the

state statute in question, Mr. Snyder said in his application:

> "Seemingly, the criminal prosecutions against relator must be dismissed as being without legal support whatever. In the light of *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710; *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323; *Curtis Publishing Co. v. Butts*, 388 U.S. 144, 87 S.Ct. 1975; *Rosenblatt v. Baer*, 383 US. 85, 86 S.Ct. 669; *Time, Inc. v. Hill*, 385 U.S. 379, 87 S.Ct. 534; *Time, Inc. v. McLaney*, 406 F. 2d 565; not to mention *Garrison v. Louisiana*, 379 U.S. 64, 85 S.Ct. 209, it is inconceivable that LSA, R.S. 14:47 can be sustained as valid in its naked form, especially that portion invoked by the state in the criminal prosecutions of relator. Based on its text, truth is no defense. As interpreted by *State v. Garrison*, 'reasonable belief' of the truthfulness of the statement forming the defamation was interpolated by judicial fiat into the statute as an essential criterion. This standard, however, was stricken by the Supreme Court in *Garrison v. State of Louisiana*, supra. Thus, at the time that these indictments against relator were returned there existed no known or authoritative standards of guilt or innocence. If this court hereafter were to undertake the task of redefining constitutionally acceptable standards and interpolating them into R.S. 14:47, such standards could have only prospective effect. To give retroactive effect

would be equivalent to creating an ex post facto law with all the constitutional infirmities attaching to such a law.

"In any event the statute in its naked form obviously offends against the First Amendment privilege of free speech and the due process commands of the Fourteenth Amendment of the United States Constitution and for that reason should be stricken with nullity and as an alternative respondent Judge D'Angelo should be compelled to conduct a hearing and receive evidence in support of relator's Motions to Quash so as to demonstrate that these prosecutions fall in the teeth of the proscription of *Garrison v. State of Louisiana,* supra."

In filing his application Mr. Snyder had hoped that the Louisiana Supreme Court would take advantage of the occasion to put at rest the profound question of free speech involved in the criminal prosecutions of him. Unfortunately, however, the Louisiana Supreme Court elected to pass up the opportunity to resolve the constitutional issues raised by petitioner and accordingly summarily denied the application in these words:

"The application is denied.

"The showing made does not warrant the exercise of our supervisory jurisdiction."(See Appendix, infra, P. 84.

On November 12, 1969, petitioner appealed to this Honorable Court from the order of the Three Judge United States District Court of October 13, 1969. On November 26, 1969, petitioner filed a motion with the Three Judge United States District Court for an injunction pending this appeal. See Appendix, infra, P. 85. On December 9, 1969, the Three Judge United States District Court again denied injunctive relief noting that the multiple criminal trials of petitioner "will be without a jury", and concluded "we have confidence in the ability of the state court to fully discharge its judicial function, and decline to interfere." See Appendix, infra, P. 90. The confidence which the court expressed related to the court's view of the state court judge's ability to fashion an interpretation of the existing libel statute of Louisiana which would satisfy the constitutional demands of the decisions of this court in *Garrison v. Louisiana*, supra, *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323, *Moity v. Louisiana*, 379 U.S. 201, 85 S.Ct. 323, and *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S.Ct. 1975. In other words, the court fully expects the state judge by judicial fiat to rewrite the state statute in such manner as to permit it "to remain constitutionally viable".

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

The Three Judge United States District Court has assigned to the state judge a legally impossible task. The long and short of it is that the state court has not the constitutional power to do that which is expected of it by the Three Judge United States District

Court. In Louisiana all crimes are statutory and the determination and definition of acts which are punishable as crimes are purely legislative functions. Louisiana Revised Statutes of 1950, Title 14, Section 7 (LSA-R.S. 14:7) under the title "Crime Defined", reads: reads:

> "A crime is that conduct which is defined as criminal in this code, or in other acts of the legislature, or in the constitution of this state."

LSA-R.S. 14:3, under the title "Interpretation", reads:

> "The articles of this code cannot be extended by analogy so as to create crimes not provided for herein * * *".

Consistently throughout the years the court of last resort of Louisiana has repeatedly adhered to the inflexible legal principle that in Louisiana all crimes are statutory and there can be no crime which is not defined and denounced by statute. This jurisprudence is exemplified by the following cases: *State of Louisiana v. Gaster*, 43 La. Ann. 636, 12 So. 739; *State v. Desforges*, 47 La.Ann. 1167, 17 So. 811; *State v. Comeaux*, 131 La. 889, 60 So. 620; *State v. Robinson*, 143 La. 543, 78 So. 955; *State v. Bischoff*, 146 La. 748, 84 So. 41; *State v. Williams*, 173 La. 1, 136 So. 68; *Simmons v. Victory Industrial Life Insurance Co. of Louisiana*, 18 La.App. 860, 139 So. 68; *State v. Clement*, 194 La. 395, 193 So. 685; *State v. Maitrejean*, 193 La. 824, 192 So. 361; *State v. Moore*, 196 La. 617, 199 So.

661; *State v. Burris*, 204 La. 608, 16 So. 2d 124; *State v. Vaccaro*, 200 La. 475, 8 So.2d 299; *State v. Sanford*, 203 La. 961, 14 So.2d 778; *State v. Toney*, 205 La. 451, 17 So.2d 624; *State v. Truby*, 211 La. 178, 29 So.2d 758. By virtue of the jurisprudence and statutory law of Louisiana no court can extend the plain meaning of any statutory crime to include as a crime conduct not defined. As long ago as 1893 the Supreme Court of Louisiana had occasion to address itself to this precise proscription.

In *State v. Gaster*, supra, the Louisiana Supreme Court had under consideration a state statute which denounced as a crime on the part of civil officers any misdemeanor committed by them in the execution of their respective offices. The statute however did not undertake to define what acts were to be considered "misdemeanors in office". In reversing conviction the Louisiana Supreme Court emphasized that the Constitution of the state divides the powers of government among three departments, the executive, the legislative and the judicial and that no one of these departments was to exercise power properly belonging to one of the others. Then the court held: (12 So. at P. 740)

> "All crimes in Louisiana are statutory, and there can be no crime which is not defined and denounced by statute. The determination and definition of acts which are punishable as crimes are purely legislative functions, which cannot be delegated to, or exercised by, the judiciary. This statute denounces as a crime, on the part of civil officers, 'any misdemeanor in

the execution of their respective offices.' It does not, on its face, undertake to define in any manner, what acts are misdemeanors in office, and, *unless there is some other law which furnishes such definition, there is no other source to which we may look for it, except to the discretion of the judiciary, which, in each case brought before it, will be vested with determining whether or not the particular acts charged, ranging from the most trivial to the most serious derelictions, from the most malicious infractions of duty to the most innocent errors of judgment, shall or shall not be punished as a crime. THIS WOULD OPERATE A DELEGATION TO THE JUDICIARY OF POWERS PURELY LEGISLATIVE, IN FLAGRANT VIOLATION OF THE CONSTITUTIONAL PROHIBITION."*

As recently as 1955, the Supreme Court of Louisiana continued to support this legal principle of criminal law as inviolate and inflexible. In *State v. Arkansas-Louisiana Gas Co.*, 227 La. 179, 78 So.2d 825, 827, the Louisiana Supreme Court said:

> "It is so axiomatic, that citation of authority is unnecessary, that in Louisiana there are no common-law crimes, and that nothing is a crime, no conduct can be held criminal, which is not made so by statute and clearly described by the language of its prohibition. *Such statutes are subject to strict interpretation.*

* * * *

> "Whenever the meaning of a statute appears doubtful, it is well recognized that we should seek the discovery of the legislative intent. It is equally manifest that 'where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no need of construction.' The doctrine is extended further in that *no court should exercise the right of resorting to a construction which has for its purpose the reading into a statute that which the legislature neither made nor intended to make.* * * *"

In so declaring what the law of Louisiana is in respect to the power of the state courts, vis-a-vis, the definition of criminal conduct, the court was relying upon prior decisions, including *State v. Vallery,* 212 La. 1095, 34 So.2d 329, 331, where the State Supreme Court said:

> "Courts can do no more than interpret and construe statutes. They cannot, under the guise of interpretation, assume legislative functions. * * *"

In the earlier case of *State v. Truby,* supra, (211 La. 178, 29 So.2d 762) it was held.:

> "It is true, as stated hereinabove, that in the construction of a provision of the criminal code the words used therein are to be taken according to their fair import, in their usual sense, in connection with the context, and with

> reference to the purposes of the provision. However, it is equally true that a penal statute must be strickly construed and *cannot be extended to cases not included within the clear import of its language, and that nothing is a crime which is not clearly and unmistakably made a crime.* * * *"

The separation of powers in state government of Louisiana has been continued by virtue of the provisions of Article 2, Sections 1 and 2 of the Louisiana Constitution of 1921 as they existed in 1893 when *State v. Gaster* was decided. Thus the proscription against a construction which reads into a statutory crime a conduct not plainly defined or intended by the legislature remains absolute and the determination and definition of acts which are punishable as crimes are purely legislative functions.

The language of the state statute sought to be applied against petitioner is plain and unambiguous and conveys a clear and definite meaning. This state statute defines defamation in these words:

> "Defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends:
>
> (1) To expose any person to hatred, contempt or ridicule, or to deprive him of the benefit of public confidence or social intercourse."

In order for the state judge to bring this state statute within the permissible ambit of the constitutional standards fashioned by this court in the area of free speech he would have to completely rewrite and redefine this state statutory crime in a manner never intended by the state legislature of Louisiana. But by virtue of the laws of the State of Louisiana he has neither the constitutional nor the statutory power to determine and define the crime of defamation in a manner different from that clearly appearing from the text of the state statute and intended by the state legislature.

The legislative intent to so define the crime of defamation in Louisiana as exemplified by this state statute is made to appeal unerringly by the plain and unambiguous language employed and by its failure and refusal to alter that definition since the decision of this court in *Garrison v. State of Louisiana,* 379 U.S. 64, 85 S.Ct. 209, delaring the act unconstitutional as applied. This statute was amended since GARRISON. It was amended in 1968. The amendment however was restricted to an alteration of the penalty imposed by the statute. Louisiana Acts, 1968, Number 671, Section 1. The amendment was inacted as emergency legislation and was effective July 20, 1968, at 1:30 P.M. The definition of the crime of defamation however was readopted intact and as it existed at the time of the *Garrison v. State of Louisiana* decision. Inasmuch as before the amendment the penalty was for a fine up to Three Thousand Dollars or imprisonment up to one year or both, it is obvious that the sole purpose of the amendment was to deny to the citizens of Lou-

isiana the right to trial by jury in cases of criminal defamation, as contemplated by this court's decision in *Duncan v. Louisiana,* 391 U.S. 145, 88 S.Ct. 1444, finally rendered June 17, 1968, one month before the effective date of the emergency legislation in question.

Thus neither on the pretext that the language of the state statute is vague nor on the pretext of searching for the legislative intent can the state judge presiding over petitioner's criminal prosecutions alter the definition of the crime of defamation so as to make it comport with the standards of free speech fashioned by this court. By the statutory and constitutional laws of the State of Louisiana, the state judge is limited to a determination of whether or not the state statute as it exists offends against the First Amendment privilege of free speech. Even if he were empowered to do otherwise, he has already announced that he will not pass upon the constitutionality of this state statute until after petitioner shall have been tried.[1]

---

[1]The State Judge, in deferring a hearing on Mr. Snyder's Motion to Quash until the end of Mr. Snyder's trial, relied upon the following pertinent provisions of Article 535 of the Louisiana Code of Criminal Procedure (West's Louisiana Statutes Annotated, Volume 4, LSA-R.S. 15:535):

> "The court may, *in order to avoid a continuance,* defer a hearing on a motion to quash until the end of the trial."

Parenthetically at the time the State Judge deferred such a hearing, the merits of the criminal prosecutions against Mr. Snyder had not been fixed for trial. There existed not even a semblance of any basis to sustain the suggestion that the State Judge was deferring a hearing so as "to avoid a continuance".

This, of course, means that if the state district court judge attempts to redefine the crime of defamation, he will do so only *after* petitioner shall have been tried on the existing criminal charge, based on the existing statutory definition of defamation. If convicted, he thus will have been convicted for a crime whose elements were not defined or made known to him prior to his conviction. In short, he will have been convicted of a crime not known to the then existing laws of Louisiana. Moreover, to thus proceed against petitioner is to compel him to be tried without informing him of the nature and the cause of the accusation against him contrary to the provisions of Article 1, Section 10 of the Louisiana Constitution. At this time and throughout his trial the definition of the crime of defamation will remain a secret locked away tightly in the mind of the trial judge. The law which it is charged he has violated will be revealed to him after he has been tried. As matters now stand all he has been told is that he has offended the king, and there is a dire penalty which awaits him. If it pleases the king, after he has been tried and convicted, he will be informed of the nature and particulars of his crime. In this manner the benevolent king will inform petitioner of the content of this ex post facto law.

But the reality of legal life in Louisiana makes it abundantly clear that Mr. Snyder will be criminally prosecuted for seditious libel, unless injunctive relief is granted by the federal judiciary. Under the well-stated law of the State of Louisiana, evidence in a criminal case must correspond with the allegations of the indictment which are essential and material to

charge the offense. *State of Louisiana v. Dore,* 227 La. 282; 79 So.2d 309. This principle of law and its raison d'etre are stated by the court of last resort of Louisiana in these words: (79 So.2d at P. 311)

> "It is elementary that the evidence in a criminal case must correspond with the allegations of the indictment which are essential and material to charge the offense, in order that the requirement may be fulfilled that an accused shall be definitely informed as to the charges against him, and that he may be protected against another prosecution for the same offense. * * *"

If the law of the State of Louisiana is observed in the prosecution of Mr. Snyder, then this principle of law simply means that as to the criminal prosecutions of Mr. Snyder evidence against him would be limited to establishing that he "did willfully, unlawfully and maliciously defame David Sheffield" (as well as the other allegedly injured persons) and that what he expressed tended to expose the alleged victim "to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse". If the State goes beyond these limitations and produces evidence inconsistent with the allegations of the indictment, then the State will have denied Mr. Snyder of the equal protection of State laws in that the State then will have proved that which is not charged and will have denied to him the right to be informed definitely of the charges against him so as to protect him against another prosecution for the same offense.

This is the impossible fate to which the Three Judge United States District Court has assigned petitioner. He has been given a cruel alternative. He must stand trial either for the violation of a purely seditious libel statute or for the violation of an ex post facto law (the content of which to be disclosed to him after trial) designed to suppress public debate by a candidate for public office. All ex post facto laws have been consistently rejected by all the courts of this nation as rank contraband. It appears to me that seditious libel, found so indispensable to the tyrants of totalitarianism, can find no room to co-exist with freedom within the outer perimeter of the First Amendment privilege of free speech. To permit seditious libel to legally exist is to negate free speech in the area where it counts the most. As this court observed in *Rosenblatt v. Baer*, 383 U.S. 85, 86 S.Ct. 669, 675-676:

> "* * * Criticism of government is at the very center of the constitutionally protected area of free discussion. Criticism of those responsible for government operations must be free less criticism of government itself is penalized. * * *"

As of now and as to petitioner, free speech in the context of criticism of government is a myth in Louisiana. Petitioner is being criminally prosecuted because he, as a candidate for public office, coiced a criticism against government, by criticizing those directly and indirectly responsible for government operations. This licentious prosecution of petitioner proves that it is "a hazardous matter to speak out against a popular

politician, with the result that the dishonest and incompetent will be shielded". *Garrison v. State of Louisiana*, 85 S.Ct. 209, 215.

The multiple criminal prosecutions of petitioner in this case exemplifies an even bolder form of state action than that which is demonstrated in *Garrison v. State of Louisiana*, 379 U.S. 64, 85 S.Ct. 209. In GARRISON at least an attempt was made to apply some attenuating standards of free speech by state authorities, such as allowing truth or a "reasonable belief" as to the truth of the statements made, to stand as a defense. In the criminal prosecutions in question against petitioner no standard of free speech exists, and the trial court is without constitutional or statutory authority to redefine the crime of defamation by reading into the statutory content any standard of free speech. The state in these cases has only to prove to the satisfaction of the trier that petitioner maliciously published or expressed a statement "to anyone other than the party defamed * * * which tends to expose (the party allegedly defamed) to hatred, contempt or ridicule or to deprive him of the benefit of public confidence or social intercourse." Significantly, it makes no difference whether the statement is true or false. The burden upon the state in these cases is indeed a simple and light burden. Obviously a truthful statement of corrupt conduct will deprive a public official "of the benefit of public confidence". As to this the state has but to prove the existence of the statement in order to establish the consequence of depriving the party accused of wrongdoing of public confidence. In such a context, where truth is no defense, the proof of malice presents

but little challenge to the state. It is damaging enough to free speech to realize that the burden of proof for conviction is simple and light. But in these cases there is another factor which arrests attention. The verdict to be rendered will be entrusted to the judgment of a judge, sitting alone. This judge will be one of the three judges made defendant in petitioner's original complaint as to which the Three Judge United States District Court has withheld all injunctive relief and has abstained. If the wisdom of a renowned legal scholar such as Blackstone is of any value, then this factor alone possesses the capability of exciting a waive of apprehension to flow through all the connective tissues of petitioner's being. In speaking to the need for trial by jury, Mr. Blackstone is quoted as having said:

> "If (the impartial administration of justice) be entirely entrusted to the magistracy, a select body of men, usually chosen * * * by parties holding the highest office in the state, their decision will frequently have an involuntary bias towards those of their own rank and dignity; for it is not to be expected, that their view should be always attentive to the interest and good of the many." Blackstone's Commentaries, Gavit Edition, (1941) 690.

The state statute in question has already been tested and found constitutionally infirm. *Garrison v. Louisiana*, supra. In light of *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710; *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323; *Curtis Publishing Co. v. Butts*, 388 U.S. 144, 87 S.Ct. 1975; *Rosenblatt v. Baer*,

383 U.S. 35, 36 S.Ct. 668; *Time, Inc. v. Hill*, 385 U.S. 379, 87 S.Ct. 534, this state statute, as sought tobe applied in this case, cannot hope to find an acceptable niche in the constitutional scheme of free speech. And because of this seemingly no federal court should hesitate to enjoin the enforcement of such a statute against a citizen interested in good government, simply because he dared to criticize those public figures responsible for the operations of government.

In abstaining the Three Judge United States District Court repeated the error committed by the district court in *Dombrowski v. Pfister*, 380 U.S. 487, 85 S.Ct. 1116. In addressing itself to this error, this court said: (85 S.Ct. at P. 1122)

> "The district court also erred in holding that it should abstain pending authoritative interpretation of the statutes in the state courts, which might hold that they did not apply to SCEF, or that they were unconstitutional as applied to SCEF. *We hold the abstention doctrine is inappropriate for cases such as the present one, where, unlike Douglas v. City of Jeannette, statutes are justifiably attacked on their face as abridging free expression, whereas applied for the purpose of discouraging protected activities.*"

The state statute in question on its face abridges free expression and it is being applied for the sole purpose of discouraging protected activities of free speech. By remitting petitioner to the state courts for

public trial, the district court expoused the same apocryphal asumption that this court in DOMBROWSKI said was inapplicable, this assumption being that defense of a criminal prosecution assures ample vindication of constitutional rights. This court said in DOMBROWSKI, (85 S.Ct. at P. 1120):

> "The assumption that defense of a criminal prosecution will generally assure ample vindication of constitutional rights is unfounded in such cases. * * * For 'the threat of sanctions may deter * * * almost as potently as the actual application of sanctions * * *.' Because of the sensitive nature of constitutionally protected expression, we have not required that all of those subject to overbroad regulations risk prosecution to test their rights. For free expression of transcendent value to all society, and not merely to those exercising their rights — might be the loser."

CONCLUSION

The criminal prosecution of petitioner is but an attempt by state officials to punish him for having criticized public officials responsible for the operation of government while a candidate for public office and to suppress his right to speak in the future. Petitioner has announced his intention to become a candidate for Representative in the United States Congress. He must risk further criminal prosecution, if he dares to criticize public figures responsible for the operations of government. The efforts of state officials to suppress

his right to free speech have not been confined to petitioner alone. These efforts have included threats by the State District Attorney against the manager of a radio station, because the manager permitted petitioner to speak over the facilities of the radio station. (See P. 4 of Supplement Motion for an Order in the Nature of Mandamus and supporting affidavit filed with this court on or about November 11, 1969, in the matter styled *John K. Snyder v. John Minor Wisdom, et al,* # ____, October Term, 1969.)

Petitioner is destined to be tried for the crime of criminal defamation on at least twelve separate occasions. He is called upon to subject himself to such pervasive ignominy solely to vindicate his right of free speech. A government as jealous of the right of free speech as ours, should not permit state authorities to so victimize a citizen, interested in good government, who dared to speak out against public corruption. The state action complained of in his Original Complaint not only discourages the exercise of free speech, but suppresses it outrightly.

What is at stake in the prosecution of Mr. Snyder is not so much his right of free speech as such. The right of free expression is at stake and might be the loser. This is the clear teaching of *Dombrowski v. Pfiester,* supra, where this court said: (85 S.Ct. at p. 1120)

> "* * * For free expression — of transcendent value to all society, and not merely to those exercising their rights — might be the loser."

It is urgently submitted, therefore, that the state statute in question is unconstitutional and its enforcement should be enjoined.

Respectfuly,

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

ATTORNEY FOR
JOHN K. SNYDER

AFFIDAVIT

STATE OF LOUISIANA
PARISH OF LAFAYETTE

I, J. MINOS SIMON, counsel for petitioner and a member of the United States Supreme Court, hereby affirm under oath that a copy of the foregoing Statement as to Jurisdiction has been served on the parties hereto by mail, in a properly addressed envelope, postage prepaid, as follows:

Knight E. Doggett, Esquire
Attorney for Charles Edward Karst and
David A. Sheffield
Suite 202, 728 Murray Street
Alexandria, Louisiana

Grove Stafford, Jr., Esquire
Attorney for Ledoux R. Provosty, Jr.
628 Murray Street
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J. A. Robinson, Esquire
Attorney for Don Moriarity, Richard Moriarity and Joe Dear
721 Johnston Street
Alexandria, Louisiana

Provosty, Sadler & Scott
Attorneys for Joe D. Smith, Jr.
Post Office Drawer 1791
Alexandria, Louisiana

Attorney General Jack P. F. Gremillion
Attorney for Edwin O. Ware, III, Judge Guy E. Humphries, Judge A. M. D'Angelo, Judge Field V. Gremillion, and Davidson Willson
State Capitol, Justice Department
Baton Rouge, Louisiana

_____
J. MINOS SIMON

SWORN TO AND SUBSCRIBED before me on this ____ day of February, 1970, at Lafayette, Louisiana.

_____
NOTARY PUBLIC

APPENDIX

IN THE
UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

JOHN K. SNYDER

versus CIVIL ACTION
No. 14,894

EDWIN O. WARE, III, JOE D. SMITH, JR., LEDOUX R. PROVOSTY, JR., DAVID SHEFFIELD, CHARLES EDWARD KARST, DON MORIARITY, RICHARD MORIARITY, JOE DEAR, A.M. D'ANGELO, GUY E. HUMPHRIES, JR., FIELD V. GREMILLION, DAVIDSON WILLSON AND RODNEY K. ARMAND

Before WISDOM, Circuit Judge; HUNTER and PUTNAM, District Judges.

ORDER

On the 6th day of October, 1969, this panel entered an order dissolving the three-judge court, save and except as to the constitutionality of LSA-R.S. 14:47.

A copy of that order is attached hereto and made a part hereof.

On September 12, 1969 the Ninth Judicial District Court for the State of Louisiana took under advisement the motions to quash the various indictments, charging John K. Snyder with criminal defamation in violation of LSA-R.S. 14:47. The issues there were identical to the issue before this Court and involved this identical case.

On September 18, 1969, the Judge of the State District Court rendered his opinion, a copy of which is attached. The minutes of the State District Court for that day reveal that counsel for Mr. Snyder gave notice to the Court and to the state in open court that he intended to appeal to the Supreme Court of Louisiana. The State District Court then granted a stay until October 17th to afford counsel for Snyder an opportunity to apply to the Supreme Court of Louisiana for remedial writs. A copy of the minutes of that court is attached. No appeal nor application for writs has yet been made to the Supreme Court of Louisiana, as of October 10, 1969.

State courts have the duty and responsibility to pass upon constitutional defenses. LSA-R.S. 14:47 defines the offense of defamation. It has been held that in a criminal prosecution such as this, LSA-R.S. 14:48, 49, impose unconstitutional limitations upon the defense of truth in a prosecution involving defamatory statements made in respect to a public official, or person who is prominently involved in public affairs.

Garrison v. Louisiana, 379 U.S. 64, 85 S. Ct. 209, 13 L. Ed. 2d 125 (1964). Do LSA-R.S. 14:47, 48 and 49 provide a vehicle under which the state may constitutionally proscribe defamatory utterances made against those in public life under standards set by *New York Times v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964); and *St. Amant v. Thompson*, 390 U.S. 727, 88 S. Ct. 1323, 20 L. Ed. 2d 262 (1968); *State v. Moity*, 245 La. 546, 159 So. 2d 149 (1963), reversed *Moity v. Louisiana*, 379 U.S. 201, 85 S. Ct. 323, 13 L. Ed. 2d 339 (1964); *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S. Ct. 1975, 18 L. Ed. 2d 1094 (1967)? These cases clearly define the path that Louisiana must follow in order to constitutionally impose criminal sanctions for false utterances. These questions should be answered by the State, through its judiciary which bears the primary responsibility for the administration of its orderly criminal processes, and the construction of its statutes in accordance with the Constitutional Guarantees afforded all of its citizens by the basic law of the Republic. We find that the Louisiana statutory provisions in question are not unconstitutional per se, but that they may be susceptible of a limiting construction, in accordance with the holding of New York Times, Garrison, and Moity, supra. Plaintiff has until October 17, 1969 to perfect his application for writs to the Supreme Court of Louisiana. If writs are denied and a conviction follows, his constitutional defenses are subject to full review on appeal. We refrain from acting until his state remedies are exhausted. We retain jurisdiction so that plaintiff may seek relief in federal court after he has exhausted his state remedies.

THIS ORDER ENTERED this the 13th day of October, 1969.

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT

IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 16 DAY OF May, 1969, within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame DAVID SHEFFIELD and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions being contained in a radio broadcast over station KSYL, a radio station situated in

Rapides Parish, Louisiana, broadcast on May 16, 1969 are as follows to wit:

"....Now I understand that Mr. Davis Sheffield who is peeved with me because I had some people call me about a club that he runs on Rapides Avenue or owns on Rapides Avenue or is connected there in some way. A lot of the neighbors in that area, I think that's the Tiki Lounge or something like that, have called me, said these kind of people should be run out-of-town. And I made some statements to people in that area that I had to agree with them. If the things that they told me were happening there were true. I could care less about Mr. Karst and Mr. Sheffield and their suit, because ladies and gentlemen, they can get busy now sueing the telephone company because they put the facts about Mr. Karst in the telephone book."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 15th DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame JOE D. SMTH, JR. and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 15, 1969 are as follows to wit:

"This word 'shadow government' I borrowed from Larry Parker. I thought it was so good. He brought it out one night and I picked it up. And as Shakespeare says, 'What's in a name,' but this was an out name

— shadow government — because these people work in the shadows. And Mr. Smith knows more about this than I do because he was in the top six of this shadow crew who went over to the City Hall and took over the administration of the City when the incumbents became so bogged down, they were on the edge of bankruptcy. Then Mr. Smith was in the group that sent up to Chicago and hired the Midwest Firm to come here and evaluate the situation. And then Mr. Smith was in these five or six men who suppressed, ladies and gentlemen, who suppressed the evidence that these people turned in of the stealing, of the graft and corruption in your City Hall."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND
FOR THE NINTH JUDICIAL DISTRICT,
PARISH OF RAPIDES, STATE OF LOUISIANA,
ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA

versus

JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 30th DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully, and maliciously defame JOE D. SMITH, JR. and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 30, 1969 are as follows to wit: "Joe Smith is ruthlessly ambitious, ruthlessly ambitious. Now he knows when I get in that City Hall that beyond a shadow of a doubt I'm going to prove to you people how eight years ago he had a fine young reporter there by the name of Bill Bailey. Bill Bailey went over to that City Hall and he got all of the information that I've been bringing

out here now for months, and he took it to Joe Smith and you know what Joe Smith did with it. He suppressed the truth in violation of the supposed Canon ethics of the newspaper and the freedom of the press that they are always bragging about, he hid the true facts and instead used them to blackmail and take hold the incumbents in City Hall. Now I submitted to you before that Joe Smith has been in charge of the shadow government for at least eight years here and has run the City of Alexandria to suit himself and is responsible for all the graft, malfeasance and corruption that has happened here in the last eight years. Now I've said to some of my friends this week, you think what we've revealed here now's been something, wait until we come out with the Joe Smith story. And you going to have to tune in on this radio station to hear that, you bet they not gonna print it over there in the Town Talk. If some of those people around there at the Town Talk know how ruthlessly ambitious Joe Smith is, and they know how phony he is and they know what happened in the case of Bill Bailey and they know how he's been covering up, covering up, the news around there for years while he gets City streets free of charge, while he has a extra line put into the Town Talk, supposedly on an emergency basis with no meters on it."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 2 DAY OF May, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame JOE D. SMITH and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 2, 1969, are as follows to wit:

"Now I don't really understand, Joe D., what you are trying to prove here. You wanted to make me a criminal; you ought to have said I robbed a bank. Or you ought to said I was really a dangerous character

and had escaped from two or three penitentiaries, maybe kidnapped somebody or maybe blackmailed somebody, like you and "Provoksky" did some of the officials over there in the City Hall, like I am fixing to prove in that court, Joe D., when we get up there."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 6th DAY OF MAY, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and

maliciously defame RODNEY K. ARMAND and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 6, 1969 are as follows to wit: "Now ladies and gentlemen, let's look at this editorial page. There is a long letter printed there signed first, by a Rodney K. Armand. Now ladies and gentlemen, do you know who this young man is? Rodney K. Armand is either 17 or 18 years old. He is a student in Bolton High School. His father is named James Armand and he is a bartender in a local club here. This man, I understand, has been promised that he will be the police chief, if Ed Karst and Joe D. Smith, Jr., of the Town Talk, by a strange twist of fate, should be elected mayor of the City of Alexandria . . . and I thank God at this time for Radio Station KSYL where you can still buy time to express yourself and the truth. This man is one of the strongest campaigners in this area for Mr. Ed Karst. Now, ladies and gentlemen, you know how all this came about. I think this letter was probably written down at the Town Talk, and out in an English Class in Bolton High School, in a class of, a English Class, of a Mrs. Baker who is a teacher there, this young Armand, who I understand, is one of the leaders of a local hippie group here, and you reading about what these hippie groups are doing in your universities. These are the kind of

people that are following Mr. Karst. Be more on this later.

Young Armand went around to the other students in that English Class, and I understand most of them signed a petition, or what they thought was a petition, that would call for further debate between Mr. Ed Karst and myself. Instead ladies and gentlemen, a few names were picked out, 16, 17 year old boys, ladies and gentlemen, and placed on this foul letter in the Town Talk. Under a bunch of lies that somebody at the Town Talk probably wrote. They are using children, ladies and gentlemen, in school classes here, for this sort of thing, down there at the Town Talk. One of these men, one of these children's daddy, just phoned me a few minutes ago on the phone and he said Mr. Snyder you bring out anything on this that you want to. I give you my permission. And we are writing you a letter explaining how the Town Talk has twisted and distorted the truth and used school children, school children, ladies and gentlemen, in this kind of foul attempt. Now I'll have a letter ... I'm not gon call this young man's name, but he said at the time that Rodney K. Armand told him that this was merely a petition circulated to get a debate between myself and Ed Karst." ...

* * * *

"Now another letter appeared in there, ladies and gentlemen, from some lawyer down in New Orleans. You know, Mr. Karst's been telling you people round here that he didn't practice law till he got around

there with his father-in-law. Here's some man telling all about how what a fine fellow Mr. Karst is and of what kind of cases he defended, what kind of a patriotic American he is. This man admits that he did practice down there in New Orleans. Mr. Karst's been lying to you people all the time, telling you he hadn't practiced down there in New Orleans. Now I want you people to look back to your Sunday Town Talk and I want you to see the name of this patriotic American. His name is Marvin C. Grodsky. Grodsky, ladies and Gentlemen, GRODSKY. Boy, that's a good, solid-sounding American name isn't it. What kind of friends you got down there in New Orleans, Mr. Karst? By your own admission, you left here and flew to Mexico City to pick up campaign funds, Mr. Karst. Strange bunch you run with Mr. Karst. Is this what you call the international hippie set? I want you to refer back, ladies and gentlemen, to the Democratic National Convention, when this same group stood there and tried to break up that Convention and I want you to read on the front pages of your newspaper, all over the United States of America, everyday, where this same kind of group here, such as this Rodney K. Armand, are trying to take over and destroy the universities and the other schools of higher learning here in the United States of America. And here we've got one of their leaders, Mr. Ed Karst, who formerly was known as Charles E. Karst in New Orleans. Somebody called me early this morning, said you got Steinman back to Steinman, said why'ont you check a little further. When this man got here, his name was not Steinman. He had changed it before that. Changed it before that. Now I don't know 'bout this, ladies and gentlemen.

But I wished you would check in this Joé D. Print this on these front page of your newspaper, 'cause up here on the left-hand side of that paper, you tell what an honest, objective job you trying to do around there. Now Joe D., if you wanta be honest and objective, you git into this letter written to you and signed. Its scurrilous attack on me by young Rodney K. Armand, a 17 year old school boy you used for this purpose. And tell the people the background on this and what has really happened out there at Bolton High School in the English Class of Mrs. Baker and why this all came about. Shame on you, Joe D. and Adras, for using school children for your foul purposes. Now, ladies and gentlemen, you've read in the Town Talk, the fine letters they claim they are getting, signed by school children, headed up by a young hippie here in this area, whose daddy is a bartender who wants to be Chief of Police under Ed Karst."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 5th DAY OF MAY, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame RODNEY K. ARMAND and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 5, 1969 are as follows to wit: "Now ladies and gentlemen, let's look at this editorial page. There is a long letter printed there signed first, by a Rodney K. Armand. Now ladies and gentlemen, do you know who this young man is? Rodney K. Armand is either 17 or 18 years old. He is a student in Bolton High School. His father

is named James Armand and he is a bartender in a local club here. This man, I understand, has been promised that he will be the police chief, if Ed Karst and Joe D. Smith, Jr., of the Town Talk, by a strange twist of fate, should be elected mayor of the City of Alexandria . . . and I thank God at this time for Radio Station KSYL where you can still buy time to express yourself and the truth. This man is one of the strongest campaigners in this area for Mr. Ed Karst. Now, ladies and gentlemen, you know how all this came about. I think this letter was probably written down at the Town Talk, and out in an English Class in Bolton High School, in a class of, a English Class, of a Mrs. Baker who is a teacher there, this young Armand, who I understand, is one of the leaders of a local hippie group here, and you reading about what these hippie groups are doing in your universities. These are the kind of people that are following Mr. Karst. Be more on this later.

Young Armand went around to the other students in that English Class, and I understand most of them signed a petition, or what they thought was a petition, that would call for further debate between Mr. Ed Karst and myself. Instead ladies and gentlemen, a few names were picked out, 16, 17 year old boys, ladies and gentlemen, and placed on this foul letter in the Town Talk. Under a bunch of lies that somebody at the Town Talk probably wrote. They are using children, ladies and gentlemen, in school classes here, for this sort of thing, down there at the Town Talk. One of these men, one of these children's daddy, just phoned me a few minutes ago on the phone and he said Mr.

Snyder you bring out anything on this that you want to. I give you my permission. And we are writing you a letter explaining how the Town Talk has twisted and distorted the truth and used school children, school children, ladies and gentlemen, in this kind of foul attempt. Now I'll have a letter ... I'm not gon call this young man's name, but he said at the time that Rodney K. Armand told him that this was merely a petition circulated to get a debate between myself and Ed Karst." ...

* * * *

"Now another letter appeared in there, ladies and gentlemen, from some lawyer down in New Orleans. You know, Mr. Karst's been telling you people round here that he didn't practice law till he got around there with his father-in-law. Here's some man telling all about how what a fine fellow Mr. Karst is and of what kind of cases he defended, what kind of a patriotic American he is. This man admits that he did practice down there in New Orleans. Mr. Karst's been lying to you people all the time, telling you he hadn't practiced down there in New Orleans. Now I want you people to look back to your Sunday Town Talk and I want you to see the name of this patriotic American. His name is Marvin C. Grodsky. Grodsky, ladies and gentlemen. GRODSKY. Boy, that's a good, solid-sounding American name, isn't it. What kind of friends you got down there in New Orleans, Mr. Karst? By your own admission, you left here and flew to Mexico City to pick up campaign funds, Mr Karst. Strange bunch you run with Mr. Karst. Is this what you call

the international hippie set? I want you to refer back, ladies and gentlemen, to the Democratic National Convention, when this same group stood there and tried to break up that Convention and I want you to read on the front pages of your newspaper, all over the United States of America, everyday, where this same kind of group here, such as this Rodney K. Armand, are trying to take over and destroy the universities and the other schools of higher learning here in the United States of America. And here we've got one of their leaders, Mr. Ed Karst, who formerly was known as Charles E. Karst, in New Orleans. Somebody called me early this morning, said you got Steinman back to Steinman, said why'ont you check a little further. When this man got here, his name was not Steinman. He had changed it before that. Changed it before that. Now I don't know 'bout this, ladies and gentlemen. But I wished you would check in this Joe D. Waggoner this on these front page of your newspaper. Come up here on the left-hand side of that paper. See what an honest, objective job you trying to do. Be there. Now Joe D., if you wanta be honest and objective, you git into this letter written to you and signed Its scurrilous attack on me by young Rodney K. Armand, a 17 year old school boy you used for that purpose. And tell the people the background on this and what has really happened out there at Bolton High School in the English Class of Mrs. Baker and how this all came about. Shame on you, Joe D. Shame on you for using school children for your foul purposes. Now, ladies and gentlemen, you've read in the Times Picayune the fine letters they claim they are getting

by school children, headed up by a young hippie here in this area, whose daddy is a bartender who wants to be Chief of Police under Ed Karst."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT
PARISH OF RAPIDES STATE OF LOUISIANA
ON THE 20th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 23rd DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court did wilfully, unlawfully, and maliciously defame JOE DEAR and did publish and express over Radio Station KSYL to persons other than

the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 23, 1969 are as follows to wit: "I have been here since the first primary talking to you people about what I think we need to do down there at City Hall in a positive way. Now many of you say and call me on the telephone that you don't think that we have done enough in the past election in cleaning up the people in City Hall who are responsible for a lot of the graft, malfeasance and other things that have been charged to the City Hall. I had one gentleman call me this morning and he said what about this purchasing agent down there at the City Hall? Said how in the world could they have continued all these deals and all these emergency purchases without this man being in on the act? You know, ladies and gentlemen, that's a good question. And if these investigators down there at City Hall listen to my radio program or if you see any of these people, why I think you ought to ask them about this. How in the world could all these emergency purchases have been made and this same man who is down there now as a purchasing agent not been connected with them in some way? It seems like the investigation ought to get over there in his office. Take a good look at him. And we have a couple of gentlemen down there, I understand, that one of them was raised there in the bookkeeping department City Hall and the other

one, his daddy is the bookkeeper and the budget director and the civil service administrator, and all these kind of things. And certainly these people must have had a great hand in what went on down there. I'm talking about Mr. Moriarity and Mr. Moriarity's son. Now I think that some investigation should start right now over there in their department. I think it should be checked to find out if they have any camps anywhere. For I have been informed, that Mr. Moriarity had city employees build him a nice camp and that a couple of years ago he sold this camp for some $5,000.00. And I think you investigators should now begin to question Mr. Moriarity and it's strange to me, that Mr. Karst was so busy turning in affidavits on other people there in City Hall, why didn't he turn in one on Mr. Moriarity? For now I understand that Mr. Moriarity and Mr. Dear, the purchasing agent, and Mr. Moriarity's son are busy in City Hall campaigning constantly for Mr. Karst. Now I just wonder here if you investigators couldn't find out if Mr. Karst has some kind of affidavit on Mr. Moriarity and his son and Mr. Dear, that he hasn't presented to the district attorney and the people, but may be using it in forcing, in forcing these people to campaign for him? Now, this group is also associated very closely, I understand, with Mr. Joe D. Smith of the Town Talk. And this man was asking me a while ago to name who really ran this shadow government here in Alexandria and then, in the next sentence or two, he named this man and that's Joe D. Smith of the Town Talk."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 23rd DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame RICHARD MORIARITY and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broad-

cast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 23, 1969 area as follows to wit: "I have been here since the first primary talking to you people about what I think we need to do down there at City Hall in a positive way. Now many of you say and call me on the telephone that you don't think that we have done enough in the past election in cleaning up the people in City Hall who are responsible for a lot of the graft, malfeasance and other things that have been charged to the City Hall. I had one gentleman call me this morning and he said what about this purchasing agent down there at the City Hall? Said how in the world could they have continued all these deals and all these emergency purchases without this man being in on the act? You know, ladies and gentlemen, that's a good question. And if these investigators down there at City Hall listen to my radio program or if you see any of these people, why I think you ought to ask them about this. How in the world could all these emergency purchases have been made and this same man who is down there now as a purchasing agent not been connected with them in some way? It seems like the investigation ought to get over there in his office. Take a good look at him. And we have a couple of gentlemen down there, I understand, that one of them was raised there in the bookkeeping department City Hall and the other one, his daddy is the bookkeeper and the budget director and the civil service administrator, and all these kind of thngs. And certainly these people must have had a great hand in what went on down there. I'm talking about Mr. Moriarity and Mr. Moriarity's son. Now I think that some investigation should start right

now over there in their department. I think it should be checked to find out if they have any camps anywhere. For I have been informed, that Mr. Moriarity had city employees build him a nice camp and that a couple of years ago he sold this camp for some $5,000.00. And I think you investigators should now begin to question Mr. Moriarity and it's strange to me, that Mr. Karst was so busy turning in affidavits on other people there in City Hall, why didn't he turn in one on Mr. Moriarity? For now I understand that Mr. Moriarity and Mr. Dear, the purchasing agent, and Mr. Moriarity's son are busy in City Hall campaigning constantly for Mr. Karst. Now I just wonder here if you investigators couldn't find out if Mr. Karst has some kind of affidavit on Mr. Moriarity and his son and Mr. Dear, that he hasn't presented to the district attorney and the people, but may be using it in forcing, in forcing these people to campaign for him? Now, this group is also associated very closely, I understand, with Mr. Joe D. Smith of the Town Talk. And this man was asking me a while ago to name who really ran this shadow government here in Alexandria and then, in the next sentence or two, he named this man and that's Joe D. Smith of the Town Talk."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 30th DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame HARRY SILVER and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 30, 1969 are as follows to wit: "Joe Smith is ruthlessly ambitious, ruthlessly ambitious. Now he knows when I get in that City Hall that beyond a shadow of a doubt I'm going to prove to you people how eight years ago he had a fine young reporter there by the name of Bill Bailey. Bill Bailey went over to that City Hall and he got

all of the information that I've been bringing out here now for months, and he took it to Joe Smith and you know what Joe Smith did with it. He suppressed the truth in violation of the supposed Canon ethics of the newspaper and the freedom of the press that they are always bragging about, he hid the true facts and instead used them to blackmail and take hold the incumbents in City Hall. Now I submitted to you before that Joe Smith has been in charge of the shadow government for at least eight years here and has run the City of Alexandria to suit himself and is responsible for all the graft, malfeasance and corruption that has happened here in the last eight years. Now I've said to some of my friends this week, you think what we've revealed here now's been something, wait until we come out with the Joe Smith story. And you going to have to tune in on this radio station to hear that, you bet they not gonna print it over there in the Town Talk. If some of those people around there at the Town Talk know how ruthlessly ambitious Joe Smith is, and they know how phony he is and they know what happened in the case of Bill Bailey and they know how he's been covering up, covering up, the news around there for years while he gets City streets free of charge, while he has a extra line put into the Town Talk, supposedly on an emergency basis with no meters on it." ...

* * * *

"But even then they may bankrupt the City of Alexandria as Ward-Steinman's been doing half the people in town, they tell me, and then they take it over or

buy it out cheap. Then Joe Smith would have a deed to it instead of sitting up there as buzzards on the roof and running the shadow government with the assistance of a merchant around the corner there from the old Hotel Bentley, Mr. Harry Silver. Now I understand Mr. Harry Silver had Karst around his place the other day and introduced him to everybody and made a nice little speech. Told'um what a fine fellow Ed Karst was. And Mr. Silver told his people he didn't owe the City of Alexandria anything and I'm not too sure about that, Mr. Silver, you wait'll I get around there at that cost account and we audit your utility bills for the past 16 years, then we'll determine just whether or not you do owe'um anything, and I know that you have had a very, very active hand in the deck down there Mr. Silver, as the number two man under Joe Smith in the shadow government."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 23rd DAY OF APRIL, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame DON MORIARITY and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on April 23, 1969 are as follows to wit: "I have been here since the first primary talking to you people about what I think we need to do down there at City Hall in a positive way. Now many of you say and call me on the telephone that you don't think that we have done enough in the past election in cleaning up the people in City Hall

who are responsible for a lot of the graft, malfeasance and other things that have been charged to the City Hall. I had one gentleman call me this morning and he said what about this purchasing agent down there at the City Hall? Said how in the world could they have continued all these deals and all these emergency purchases without this man being in on the act? You know, ladies and gentlemen, that's a good question. And if these investigators down there at City Hall listen to my radio program or if you see any of these people, why I think you ought to ask them about this. How in the world could all these emergency purchases have been made and this same man who is down there now as a purchasing agent not been connected with them in some way? It seems like the investigation ought to get over there in his office. Take a good look at him. And we have a couple of gentlemen down there, I understand, that one of them was raised there in the bookkeeping department City Hall and the other one, his daddy is the bookkeeper and the budget director and the civil service administrator, and all these kind of things. And certainly these people must have had a great hand in what went on down there. I'm talking about Mr. Moriarity and Mr. Moriarity's son. Now I think that some investigation should start right now over there in their department. I think it should be checked to find out if they have any camps anywhere. For I have been informed that Mr. Moriarity had city employees build him a nice camp and that a couple of years ago he sold this camp for some $5.000.00. And I think your investigators should now begin to question Mr. Moriarity and it's strange to me, that Mr. Karst was so busy turning in affidavits

on other people there in City Hall, why didn't he turn in one on Mr. Moriarity? For now I understand that Mr. Moriarity and Mr. Dear, the purchasing agent, and Mr. Moriarity's son are busy in City Hall campaigning constantly for Mr. Karst. Now I just wonder here if you investigators couldn't find out if Mr. Karst has some kind of affidavit on Mr. Moriarity and his son and Mr. Dear, that he hasn't presented to the district attorney and the people, but may be using it in forcing, in forcing these people to campaign for him? Now, this group is also associated very closely, I understand, with Mr. Joe D. Smith of the Town Talk. And this man was asking me a while ago to name who really ran this shadow government here in Alexandria and then, in the next sentence or two, he named this man and that's Joe D. Smith of the Town Talk."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 13 DAY OF May, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame CHARLES EDWARD KARST and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 13,1969, are as follows to wit:

"This is the form of government that made our country what it is today and made it great, in spite of the radical students and a few teachers who are at this time trying to destroy not only our educational

system, but our forms of government as well. And we do not need any of these rabble-rousers from New Orleans, from Mansura or from Mexico City in here telling us how to run our local affairs. And isn't it ridiculous that a man who has been representing Communist front organization in New Orleans, comes here, registers in Alexandria and a month or two later, his father-in-law starts running him for Mayor of our City and the man doesn't even really know one end of town from another. He'd be just a puppet of Joe D. Smith and Loodough Provosky and others in the shadow government with Mr. Smith, such as Irving Steinman."

....

So what does Mr. Karst have? He has years spent in school. He has sometimes been in a mental institution for, I understand, alcoholism and neurotic conditions. Then he has a few months sitting here in his father-in-law's law office, and I understand that he has never had a case in court."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 8th DAY OF MAY, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame ED KARST and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 8, 1969 are as follows to wit:

". . . I urge you other fine ladies in the League of Women Voters to find out what has happened here, which has prejudiced your organization outwardly and openly for a man who for two long years, represented

a Communist front organization in the City of New Orleans as Charles E. Karst before coming here six or seven months ago to run for Mayor of Alexandria and at that time, changing his name to Ed Karst."

"Now, as I say, Mr. Smith thought he had the trap set for me, with that foul convict-looking circular they put out there some three or four days 'fore election. And this time I heard that Mr. Smith had a trick of the same kind planned to eliminate me. They had panicked somewhat because they had learned that Mr. Karst had been in a mental institution in New Orleans at least twice, I am informed, and that Mr. Karst, for some two years, had been defending a Communist front organization that is Number One on the unwanted list of the American Legion and they had learned that Mr. Karst has been telling people here in the City of Alexandria that he had never practiced law in the City of New Orleans, but had only begun the practice of law when he joined Steinman's, his father-in-law's office here in Alexandria."

"Now I ask you at the Town Talk, and I have asked you on other occasions, why don't you go down to New Orleans and get the facts on Mr. Charles E. Karst, practising there in the National Bank of Commerce Building in 1966 and 1967 and publish these facts in your newspaper and not there try to cover these facts with a letter from somebody by the name of Mr. Boysky. This sounds like somebody from the heart of Russia to me, Joe D.. Let's you come forward and print the true facts and who Mr. Karst's clients were down there, Joe D.. You have this information, as well as the information about the mental institutions Joe D..

You say you want to publish the objective truth. Why don't you get busy, boy, and let's have some of it on the front page of your newspaper."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 14th DAY OF MAY, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame EDWIN O. WARE and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things

which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 14, 1969 are as follows to wit:

> "And I intend to go back to Alexandria and bring criminal action against E. O. Ware, our District Attorney there. No wonder Mr. Ware has been in such a stew here lately! No wonder Mr. Ware has been running up and down the streets trying to help Ed Karst! No wonder Mr. Ware has done everything in his power to get me off the radio station there to keep me from talking to you people because here Mr. Ware has violated about half of the criminal laws in the books, ladies and gentlemen. He's violated State and Federal laws. He and his people have printed and published these things, sent them through the mail unsigned, unsigned. And I promise you, ladies and gentlemen, we gonna get rid of two birds with one rock if you will help me as you have helped me in the past on this coming Saturday."

CONTRARY TO THE LAW OF THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

STATE OF LOUISIANA
NINTH JUDICIAL DISTRICT COURT
IN THE NINTH JUDICIAL DISTRICT COURT IN AND FOR THE NINTH JUDICIAL DISTRICT, PARISH OF RAPIDES, STATE OF LOUISIANA, ON THE 29th DAY OF May, 1969

STATE OF LOUISIANA
versus
JOHN K. SNYDER

THE GRAND JURY OF THE PARISH OF RAPIDES, LOUISIANA, CHARGES THAT JOHN K. SNYDER COMMITTED THE OFFENSE OF DEFAMATION IN THAT HE ON OR ABOUT THE 2 DAY OF May, 1969 within the Parish of Rapides in the jurisdiction of this court, did wilfully, unlawfully and maliciously defame LEDOUX R. PROVOSTY, JR. and did publish and express over Radio Station KSYL to persons other than the party defamed which said publication and expressions are recited herein below of certain things which tend to expose to hatred, contempt and ridicule and deprive such person of his benefit of public confidence and social intercourse. The said publications and expressions, being contained in a radio broadcast over station KSYL, a radio station situated in Rapides Parish, Louisiana, broadcast on May 2, 1969, are as follows to wit: "Good morning, ladies and gentlemen, John K. Snyder on this end again in spite of the Town Talk and Joe D. Smith and old lawyer "Provoksky." I have just come from the court room this morning and we had a short skirmish there with Joe D.'s lawyer "Provoksky", and I am going to say

that old "Provoksky" was perfect as far as I am concerned to represent Joe D. because "Provoksky" also is involved like neck deep in the city hall scandal. We are going to have some fun there in that courtroom, ladies and gentlemen, we are going to have some fun there the day before the election because that is when Judge D'Angelo this morning set the continuance, I believe that's the right word for it, myself not being a lawyer." ....

"Boy, you are some joke; just like your lawyer, old "Provoksy." I am going to have you birds up there under oath in that court room; we are going to be up there twice before this election, ladies and gentlemen, and I want some of you to come up there in that court room and watch Joe D. perform when he is faced with the truth. Now I want to ask you people to get on your telephones and call the district attorney's office, you call the police office and you call the mayor's office and you say, look a here, this suit against the Town Talk that Snyder has placed representing the citizens of the City of Alexandria will be based primarily on the records in that City Hall, starting in 1959, and you get some kind of armed guard in there on those records and you get him in there right now. We don't need anybody up there at night, we don't need anybody up there at night, when we need them, ladies and gentlemen, is when Joe Dear, the Moriaritys, and Carroll Lanier are in there fooling with those records. They tell me they had a big rush on the records yesterday trying to change some of the records there in the utilities department. Let's get that armed guard in there. These people are involved

— all of them — neck deep in this scandal in City Hall and they have got no business in there around those records unless there is somebody from probably the state police crime laboratory in Baton Rouge who is uninvolved in this thing standing there and watching them there at every minute and every piece of paper they touch and be sure they don't try to palm anything and put it in their pockets, set it on fire or erase it, and we need that right now, and I urge you ladies, pick up your telephone and demand — demand, ladies and gentlemen, that these people come out of there and have no further opportunity to change the records there in this City Hall.

We can't have this sort of thing. We are going to have to call on the Governor. I urge you today to pick up your telephone and you get in touch with John J. McKeithen and you say, get us somebody up here from that state police crime laboratory who is not involved in this thing, who is an expert in this business and let's get this cleaned up as you say that you want any taint of scandal cleaned up, and you did these things governor in Iberville Parish. You got rid of the Sheriff down there when he wasn't doing right; we got a whole lot of people in this parish who haven't been doing right — mainly I am talking about Joe D. Smith, and I am talking about old "Provoksky" and some of their other cronies here in this town; we need somebody in here quick — like today — to stop these people from fooling with these records."

CONTRARY TO THE LAW ~~OF~~ THE STATE OF LOUISIANA AND AGAINST THE PEACE AND DIGNITY OF THE SAME.

(Signed) ROBERT P. JACKSON
Assistant District Attorney,
Ninth Judicial District

LAW OFFICES OF
J. MINOS SIMON
SIMON BUILDING
1408 Pinhook Road
Lafayette, Louisiana 70501

September 10, 1969

Honorable John Minor Wisdom
Judge, United States Court of Appeals
400 Royal Street
New Orleans, Louisiana 70130

Re: John K. Snyder v. Edwin O. Ware, III, et al, U.S. District Court, #14894, Alexandria Division

Dear Judge Wisdom:

Pursuant to your suggestion made during our recent telephone conversation I write to re-urge Mr. Snyder's application for a temporary restraining order prayed for in his original complaint, a copy of which com-

plaint is enclosed herewith so as to facilitate you in orienting yourself to the essential issues involved in this application.

There have been developments which make it a matter of utmost urgency that injunctive relief be granted if the important constitutional issues in this case are not to become moot.

Despite the enclosed application to the United States District Court for injunctive relief in respect to the intended criminal prosecution of Mr. Snyder based upon a statute that is patently unconstitutional, and in defiance of the jurisdiction of this court over the subject matter in question, the State of Louisiana, since the filing of the enclosed complaint, has taken steps to proceed with these criminal prosecutions. By letter dated September 4, 1969 Mr. Edwin O. Ware, District Attorney in charge of the state criminal prosecution has written to advise that motions filed in these criminal cases have been scheduled for hearing before the State District Court at Alexandria on September 12, 1969, at 10:00 o'clock A.M. By letter dated September 3, 1969, he has written to advise that Mr. Snyder will be arraigned on the perjury charge mentioned in the original complaint on September 12, 1969. Before reciting additional factual developments, I point out that the state statute in question and that part upon which the criminal prosecutions mentioned in the original complaint are based reads as follows:

(R.S. 14:47)

"Defamation is the malicious publication or

expression in any manner, to anyone other than the party defamed, of anything which tends:

"1. To expose any person to hatred, contempt or ridicule or to deprive him of the benefit of public confidence or social intercourse.

* * * *

"Whoever commits the crime of defamation shall be fined not more than $500.00, or imprisoned for not more than six months, or both. (As amended by Act 647 of 1968)"

It is apparent from a reading of this statute that the truth or falsity of any malicious utterances is not an issue nor a defense. This state statute appears patently to be unconstitutional. It has been held to be unconstitutional by the Supreme Court in *Garrison v. State of Louisiana*, 379 U.S. 64, 85 S.Ct. 209. The essential holding of the court is verbalized in these words: (85 S.Ct. at P. 217)

"Applying the principles of the *New York Times* case, we hold that the Louisiana statute, as authoritatively interpreted by the Supreme Court of Louisiana, incorporates constitutionally invalid standards in the context of criticism of the official conduct of public officials.

* * * *

"The statute is also unconstitutional as interpreted to cover false statements against public officials."

Under the doctrine of *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, *Curtis Publishing Company v. Butts*, 388 U.S. 144, 87 S.Ct. 1975, *Rosenblatt v. Baer*, 383 U.S. 85, 86 S.Ct. 669, *Time, Inc. v. Hill*, 385 U.S. 379, 87 S.Ct. 534, and the recent decision of *Time, Inc. v. McLaney*, 406 F.2d 565, all of the defendants in the captioned case are either public officials or public figures, subject to the standards of free speech defined by *New York Times v. Sullivan* and *Garrison v. State of Louisiana*. This in turn simply means that the decision of *Garrison v. State of Louisiana* is conclusively dispositive of the constitutionality of the state statute sought to be enforced against Mr. Snyder.

If an immediate injunction is not granted to Mr. Snyder or an immediate hearing convened to consider the immediate grant of injunctive relief, the constitutional issues may well become moot, because soon Mr. Snyder will have been tried in the state courts. That the multiple state charges of criminal defamation, based upon this state statute, have had a chilling effect upon Mr. Snyder's right of free speech is self-evident. He is not able even to defend himself to the civil lawsuit for defamation filed by defendant C. Edward Karst and pending in the state district court in which the criminal charges are pending. The State of Louisiana, acting through the State District Attorney, has reached into the pending civil lawsuit of defamation filed by Mr. Karst, and utilizing answers given by Mr. Snyder to written interrogatories propounded by defendant Karst, has caused the Grand Jury to return an indictment against Mr. Snyder charging him with perjury.

Thus the State of Louisiana, acting in concert with defendant Karst to aid him in prosecuting Mr. Snyder for having exercised his right of free speech, has publicly branded Mr. Snyder as a liar in respect to his defense to Mr. Karst's civil lawsuit. The State of Louisiana, acting through Judge Guy Humphries, another defendant in the captioned matter, has ordered Mr. Snyder to appear before the state district court at Alexandria on September 23, 1969, and to submit himself to unlimited oral examination pursuant to the discovery statutes of the State of Louisiana. Judge Humphries has further declared the intention to preside over the taking of that deposition. Thus, the State of Louisiana, acting through State Judge Humphries, is compelling Mr. Snyder to submit himself to unlimited examination concerning the subject matter of Mr. Karst's civil lawsuit, which encompasses the subject matter of two pending indictments involving the alleged criminal defamation of Mr. Karst. By this method the State of Louisiana, acting through Judge Humphries, is accomplishing that which the State of Louisiana, acting through the State District Attorney, cannot constitutionally accomplish, namely, the State of Louisiana is compelling Mr. Snyder to testify against himself in connection with criminal charges pending against him, under the guise of compelling him to do so under the auspices of a pending civil lawsuit involving the same factual transaction. By so doing, the State of Louisiana is depriving Mr. Snyder of constitutional due process. *Silver v. McCamey*, 221 F.2d 873.

For a more detailed statement of recent developments involving Mr. Snyder I enclose a copy of an

application for remedial writs filed in the State Court of Appeal at Lake Charles, Louisiana.

The adversity experienced by Mr. Dombroski in *Dombroski v. Pfister,* 380 U.S. 487, 85 S.Ct. 1116, pales in the light of Mr. Snyder's impossible position. "Because of the sensitive nature of constitutionally protected expression, we have not required that all of those subject to overbroad regulations risk prosecution to test their rights," said the court in *Dombroski.* If immediate injunctive relief is not granted, Mr. Snyder will be required to risk prosecution to test his right of free speech.

On behalf of Mr. Snyder I respectfully request the immediate grant of injunctive relief, staying the hands of the State until the issues of this case shall have been decided by the full court.

Respectfully,
(Signed) J. MINOS SIMON
J. Minos Simon

ehs
enclosures

LAW OFFICES OF
J. MINOS SIMON
SIMON BUILDING
1408 Pinhook Road
Lafayette, Louisiana 70501

September 17, 1969

Registered Mail — Special Delivery
Honorable John Minor Wisdom
Judge, United States Court of Appeals
400 Royal Street
New Orleans, Louisiana

Honorable Edwin F. Hunter
Judge, United States District Court
Federal Building
Lake Charles, Louisiana

Honorable Richard J. Putnam
Judge, United States District Court
Federal Building
Lafayette, Louisiana

Re: John K. Snyder v. Edwin O. Ware, III, et al
No: United States District Court, Alexandria Division, #14,894

Dear Judges:

The captioned case invokes the composition of a three judge court to hear and determine the question of the

constitutionality of a state statute, namely the defamation statute of Louisiana, and the constitutionality of the conduct of state officials in invoking that statute and in invoking their power as state officials to deny Mr. Snyder of his First Amendment privilege of free speech.

The pendency of this application for injunctive relief notwithstanding, state officials are going forward with the prosecution of Mr. Snyder. Parallel civil suits for damages arising out of the same political campaign which forms the factual matrix of the criminal charges of defamation pending against Mr. Snyder similarly are going forward under the auspices of state court officials. In fact there is an existing order issued by State Judge Humphries compelling Mr. Snyder to submit himself to unlimited examination pursuant to the discovery statute of Louisiana as to his alleged defamatory utterances which form the basis of the criminal charges against him, involving Mr. Edward Karst, Mayor who was successful in the election campaign involved in this litigation. As recited in the original complaint, stemming from the same transaction, the State of Louisiana, acting through the District Attorney, has reached into the civil suit which Karst filed against Snyder and has used written answers to interrogatories propounded to Mr. Snyder and answered by him as a basis for perjury prosecution of Mr. Snyder. Mr. Snyder is called upon by the State of Louisiana, acting through State Judge Humphries, to submit himself to unlimited examination by Mr. Karst's attorney as to these perjury charges likewise. Such a proceeding, of course, violates the due process rights

of Mr. Snyder. *Silver v. McCaney*, 221 F.2d 873. Furthermore, Mr. Snyder is being made to run the risk of imprisonment in order to vindicate his right of free speech.

If the order of State Judge Humphries is not enjoined, then on September 23, 1969, Mr. Snyder will have to submit himself to this unlimited examination. He will be made to submit himself in this matter solely because the State of Louisiana, acting through State Judge Humphries, is compelling him to do so. Mr. Snyder's position is in greater jeopardy than was the position of Dombrowski and the position of Sheridan and Townley in the recent Fifth Circuit court decision of *Sheridan and Townley v. Garrison*. Unless an immediate hearing is granted or an immediate temporary restraining order is granted and granted before September 23, 1969, in material respects the substantial, critical constitutional question of freedom of speech presented by the application will have become moot and unlike Dombrowski and Sheridan, Mr. Snyder will not have secured the protection to which, under those decisions, it appears to me unquestionably he is entitled to receive.

Respectfully,
(Signed) J. MINOS SIMON
J. Minos Simon

ehs

NINTH JUDICIAL DISTRICT COURT
NUMBERS 83,079, 83,080, 83,081, 83,082, 83,083, 83,084, 83,085, 83,086, 83,088, 83,089, 83,090, and 83,092.
PARISH OF RAPIDES, LOUISIANA

STATE OF LOUISIANA
versus
JOHN K. SNYDER

RULING ON MOTIONS TO QUASH

On September 12th, 1969, this Court took under advisement the Motions to Quash the various indictments charging the defendant John K. Snyder with criminal defamation in violation of R.S. 14:47.

The defendant in each of the Motions charges that "the indictment is based upon an invalid statute in that the provisions of LSA-R.S. 14:47 are unconstitutional null and void as a matter of law and as administered in that they violate your movant's rights, privileges and immunities including the right of free speech, due process and equal protection of laws secured to your movant by the provisions of the First and Fourteenth Amendments of the United States Constitution."

The Court did not permit the defendant to take testimony on the allegations contained in the Motions which charges the conditions, situation existing at the time of the alleged statements was made and characterizes the target of the alleged defamatory statements that is whether the latter were public officials, candidates

for public office, a public figure, or one who had injected himself into a political campaign involving the defendant.

Without any evidence having been taken on the allegations contained in the various motions to quash, this Court would be compelled to rule on the constitutionality vel non of the statute on its face. The Court is of the opinion that the United States Supreme Court did not hold the Statute unconstitutional on its face, but only as interpreted and applied by the State Supreme Court to criticism of official conduct of public officials. This Court agrees with the author of the note which appears in the Tulane Law Review, "Constitutional Law — Freedom of Speech — Defamation", in Volume 39 at page 355, wherein the observation is made:

> "However, in part of its rationale for reversing in *Garrison*, the Court seems to cast *doubt on whether any criminal defamation statute* except those narrowly drawn to punish speech likely to cause a 'clear and present danger' of public disorder or breach of the peace can meet the constitutional requirement of the First Amendment."

This Court further observes what was said by the United States Supreme Court in the *New York Times Company v. Sullivan* case (376 U.S. 270, 84 S. Ct. 721):

> "The First and Fourteenth Amendments embody our profound national commitment to the

principle that debate on public issues should be uninhibited, robust and wide open, and that it may well include vehement, caustic and sometimes unpleasantly sharp attacks on government and public officials."

The U. S. Supreme Court in Garrison made the following statement which can be interpreted to indicate its disapproval of our Criminal Defamation Law:

"The absence in the proposed official draft of the model penal code of the American Law Institute of any criminal libel statute on the Louisiana pattern reflects this modern concensus. The ALI reporters, in explaining the omission, gave cogent evidence of the obsolescence of Livingston's justification:

'It goes without saying that penal sanctions cannot be justified merely by the fact that defamation is evil or damaging to a person in ways that entitle him to maintain a civil suit. *Usually we reserve the criminal law for harmful behavior which exceptionally disturbs the community's sense of security.* — it seems evident that personal calumny falls in neither of these classes in the USA, that it is therefore inappropriate for penal control, and that this probably accounts for the paucity of prosecutions and the near desuetude of private criminal libel legislation in this country — Mod-

el Penal Code, tent. draft No. 13, 1961, Paragraph 250.7, Comments at 44.'"

The decisions of higher courts have applied the rule applicable to "public officials" to "public figures", "candidates for public office", an applicant for appointment to an official state position in civil defamation cases. See *Jaworsky v. Padfield*, 211 So. 2d. 122; *Dyer v. Davis*, 189 So. 2d. 678; *Matassa v. Belle*, 246 La. 294. 1964 So. 2d. 332.

As this Court reads and understands the Garrison case the Louisiana Criminal Defamation Statute was held to be constitutionally deficient because the Statute directs punishment for true statements made with "actual malice" which, according to the United States Supreme Court, was defined by the Louisiana Supreme Court to mean "hatred, ill will or enmity or a wanton desire to injure". Also because the Statute unlike the New York Times Standard does not forbid the punishment of false statements, unless made with knowledge of their falsity or in reckless disregard of whether they are true or false.

It may very well be that the Statute is constitutional on its face but only unconstitutional as applied to public officials and other persons who have been assimilated thereto. In the present posture of the record this Court cannot conclude that the target of any of the alleged defamatory statements were public officials, candidates for public office, public figures, or the like. Accordingly, the Court feels that defendant is entitled

to adduce evidence on his Motion to Quash, which appears to be necessary before a determination of the status of the so-called targets can be made, and a determination as to whether the Garrison rule of the United States Supreme Court can be applied.

Accordingly, the Court will rescind its previous ruling disallowing evidence to be taken on the Motions to Quash and will allow this to be done so that the Court may determine whether the Garrison rule applies. However, under the authority given to the Court under Article 535 the Code of Criminal Procedure the Court will defer a hearing on the Motions to Quash until the end of the trial. If there is no objection on the part of the State or the defendant, the Court will permit evidence in connection with the Motions to Quash to be presented during the trial of the merits, or will consider any evidence adduced on the trial of the merits as being admissible or pertinent to a determination of the issue raised by the Motions to Quash.

September 18th, 1969

(Signed) A. D'ANGELO
DISTRICT JUDGE

SUPREME COURT of LOUISIANA
NEW ORLEANS, 70112
November 6, 1969

STATE OF LOUISIANA

versus No. 50,172

JOHN K. SNYDER

In re: John K. Snyder applying for writs of certiorari, mandamus and prohibition

The application is denied.

The showing made does not warrant the exercise of our supervisory jurisdiction.

/s/ JBF
/s/ JBH
/s/ EHMcC
/s/ WBH
/s/ JWS
/s/ FWS
/s/ MEB

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

JOHN K. SNYDER

versus Docket #14,894

EDWIN O. WARE, III, et al

MOTION FOR INJUNCTION PENDING
APPEAL FROM INTERLOCUTORY ORDER

TO THE HONORABLES, JOHN MINOR WISDOM, EDWIN F. HUNTER, and RICHARD J. PUTNAM, JUDGES COMPRISING THE THREE JUDGE UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF LOUISIANA:

JOHN K. SNYDER, appearing through counsel, respectfully prays for the issuance of an injunction during the pendency of his appeal to the United States Supreme Court as to the interlocutory order or decree of this court of October 13, 1969, pursuant to the Federal Rules of Civil Procedure and particularly Rule 62(c), in support whereof movant respectfully alleges that:

Mr. Snyder is being criminally prosecuted on the basis of fifteenth indictments (two of which have been voluntarily dismissed) for criminal defamation and state officials rely for these multiple prosecutions upon a state statute which the United States Supreme Court had declared unconstitutional as violating the First

Amendment privilege of free speech. *Garrison v. State of Louisiana*, 379 U.S. 64, 85 S.Ct. 209. Despite preliminary pleas to dismiss based on GARRISON, state officials are pressing forward with these prosecutions in defiance of the Supreme Court's decision in GARRISON and in violation of petitioner's First Amendment privilege of free speech.

The multiple criminal prosecutions of Mr. Snyder are based upon alleged utterances he made during the debate of public issues while he functioned as an accredited and qualified candidate for the Office of Mayor of the City of Alexandria, Louisiana. All of his preliminary motions, raising the question of the constitutionality of the state defamation statute upon which state officials rely for the multiple criminal prosecutions of Mr. Snyder, have been overruled, as to which rulings the Louisiana State Supreme Court has denied review. The state statute in its present posture authorizes prosecution for seditious libel. Based on its text, truth is no defense. The burden of the State of Louisiana in the multiple criminal prosecutions of Mr. Snyder is simply to prove that the alleged utterances attributed to him were made maliciously by him.

State officials maintaining the multiple criminal prosecutions against Mr. Snyder seek outright suppression of his right to free speech and to inflict maximum punishment for the prior exercise of his right to free speech. These same state officials have threatened a representative of the news media with criminal prosecution for having permitted Mr. Snyder to have used news media facilities for his public speeches. Since

the pendency of this action before the court and the multiple criminal prosecutions of Mr. Snyder, he has announced an intention to become a candidate for the Office of House of Representatives in the United States Congress. The Congressional District in question includes the City of Alexandria, Louisiana. Thus far Mr. Snyder has been unable to contract for radio time to make political speeches, though he has requested such time. The obvious reason for his inability to obtain radio time to debate public issues is the fact that representatives of the news media are afraid to sell time to Mr. Snyder because of the threats communicated to them by the state officials prosecuting Mr. Snyder.

The abstention order of this court obviously contemplates an abdication of jurisdiction imposed upon it by the United States Congress, inasmuch as in its reasons for the interlocutory order of abstention the court speaks of Mr. Snyder's remedies after conviction. Specifically this court stated: "If writs are denied and a conviction follows, his constitutional defenses are subject to full review on appeal." If a "full review on appeal" is granted, this would mean that a review by the United States Supreme Court is an anticipated fact. When this occurs the issues presented by Mr. Snyder's captioned lawsuit shall have been authoritatively adjudicated and there will no longer be anything for the present three judge district court to adjudicate. Thus the three judge district court shall have successfully abdicated a jurisdiction imposed upon it by the

United States Congress to decide the constitutional question presented to it by Mr. Snyder's complaint.

As of now free speech in the context of criticism of public officials is a myth in Louisiana. Indeed, the criminal prosecutions of Mr. Snyder prove that it is "a hazardous matter to speak out against a popular politician, with the result that the dishonest and incompetent will be shielded". 85 S.Ct. at P. 215.

If it is true that *Dombrowski v. Pfister,* 380 U.S. 487, 85 S.Ct. 1116, teaches "because of the sensitive nature of constitutionally protected expression, we have not required that all of those subject to overbroad regulations risk prosecution to test their rights", then Mr. Snyder unquestionably is entitled to an injunction against the continued prosecution of him pending a determination by this court or the United States Supreme Court of the constitutionality of the state statute upon which his multiple criminal prosecutions rest. Absent injunctive relief Mr. Snyder will have to endure the ignominy of a public trial as a criminal offender for having exercised his precious right of free speech in connection with the debate of paramount questions of local self-government as a candidate for public office and will be made further to suffer the financial burdens of a defense and the ignominious taint of criminal guilt. Should this come to pass and this prediction fulfilled, no sane person residing within the territorial district of the District Attorney of the Ninth Judicial District would dare engage in "robust debate" concerning public issues as a candidate

for public office. The price of free speech in that community is just too high.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana
(Signed) J. MINOS SIMON
Attorney for Petitioner

CERTIFICATE

I hereby certify that a copy of the foregoing motion has this day been forwarded to the below named persons by placing same in properly addressed envelopes, postage prepaid, United States mail, to-wit:

Mr. Knight E. Doggett
Attorney at Law
728 Murray Street, Suite 202
Alexandria, Louisiana

Mr. Grove Stafford, Jr.
Attorney at Law
628 Murray Street
Alexandria, Louisiana

Mr. J. A. Robinson
Attorney at Law
721 Johnston Street
Alexandria, Louisiana

Provosty, Sadler & Scott
Attorneys at Law
Post Office Drawer 1791
Alexandria, Louisiana

LAFAYETTE, LOUISIANA, this 26th day of November, 1969.

(Signed) J. MINOS SIMON
J. MINOS SIMON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

FILED: Dec. 10, 1969

JOHN K. SNYDER

versus C.A. No. 14,894

EDWIN O. WARE, III; JOE D. SMITH, Jr.; LEDOUX R. PROVOSTY, JR.; DAVID SHEFFIELD; CHARLES EDWARD KARST; DON MORIARITY; RICHARD MORIARITY; JOE DEAR; A. M. D'ANGELO; GUY E. HUMPHRIES, JR.; FIELD V. GREMILLION; DAVIDSON WILLSON AND RODNEY K. ARMAND

Before WISDOM, Circuit Judge; HUNTER and PUTNAM, District Judges.

ORDER DENYING INJUNCTION PENDING APPEAL

The petitioner in this matter, John K. Snyder, charged with the offense of defamation as defined and penalized in the Louisiana Criminal Code, Article 47 et seq., L.S.A.-R.S. 14:47 et seq., again applies for an injunction against further proceedings in the state actions pending an appeal to the United States Supreme Court from our decision denying injunctive relief in the first instance. We deny the relief sought at this time.

The cases of *Garrison v. Louisiana*, 379 U.S. 64, 85 S.Ct. 209, 13 L.Ed. 2d 125 (1964); *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed. 2d 686 (1964); *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323, 20 L.Ed. 2d (1968); *State v. Moity*, 245 La. 546, 159 So. 2d 149 (1963); *Moity v. Louisiana*, 379 U.S. 201, 85 S.Ct. 323, 13 L.Ed. 2d 339 (1964); *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed. 2d 1094 (1967), impose constitutional restrictions upon criminal as well as civil actions for defamation. The state judge before whom these cases are pending rendered a written opinion on petitioner Snyder's motion to quash the indictment in that court. A copy of his opinion is in this record. It demonstrates that the trial judge is aware of the problems of interpretation posed by these cases if the Louisiana statutes are to remain constitutionally viable. He did not deny petitioner's motions to quash raising these issues, but rather deferred ruling thereon under L.S.A.-C.Cr.P. Art. 535D. The Louisiana Supreme Court de-

clined to disturb this exercise of judicial discretion on Mr. Snyder's application for supervisory writs.

At this time we merely reiterate our belief that in this instance abstention is appropriate. Construction of the terms "malicious publication or expression" as used in Article 47, and "actual malice" as used in Article 49, in a manner consistent with the rules of *New York Times* and *Garrison*, is distinctly possible. This responsibility rests with the State judiciary, as we have previously stated. These trials will be without a jury. We have confidence in the ability of the state court to fully discharge its judicial function, and decline to interfere.

Jurisdiction is retained as previously stated.

THIS ORDER ENTERED this 9th day of December, 1969.